

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE PROVISION)
OF STANDARD OFFER SUPPLY TO)
RETAIL CONSUMERS IN THE SERVICE)
TERRITORY OF DELMARVA POWER &) PSC DOCKET NO. 19-0520
LIGHT COMPANY)
(FILED AUGUST 16, 2019))

ORDER NO. 9463

AND NOW, this 12th day of September, 2019:

WHEREAS, in October 2005, the Delaware Public Service Commission (the “Commission”) approved a Request for Proposal (“RFP”) process for Delmarva Power & Light Company (“Delmarva”) to procure supply from the wholesale electric market for resale to its Standard Offer Service (“SOS”) customers, in accordance with the Electric Utility Restructuring Act of 1999 (the “Act”);¹ and

WHEREAS, in April 2006, the General Assembly revised certain of the Act’s SOS provisions but carried forward the RFP process established for procuring at least 30% of Delmarva’s overall SOS load;² and

WHEREAS, after each of the first two SOS procurement years, the Commission changed the RFP process and the framework for public disclosure of the results;³ and

¹See PSC Order No. 6746 (Oct. 11, 2005).

²See 26 *Del. C.* §1007(c) (1) a, added by the “Electric Utility Retail Customer Supply Act of 2006,” 75 Del. Laws Ch. 242 (April 6, 2006).

³See PSC Order Nos. 7053 (Oct. 17, 2006) and 7284 (Sept. 18, 2007).

WHEREAS, in September 2008, the Commission approved Delmarva's request to remove the obligation of wholesale suppliers to provide Renewable Energy Credits ("RECs") from the Full Requirements Service Agreement ("FSA");⁴ and

WHEREAS, in October 2008, pursuant to 26 *Del. C.* §1007(c)(1) and its continuing jurisdiction, the Commission approved Delmarva's request to utilize a reverse auction process conducted by World Energy Solutions Inc. ("World Energy")⁵ in its next annual SOS procurement process;⁶ and

WHEREAS, Delmarva has conducted its annual SOS procurements using the reverse auction for all supply contracts since those commencing on June 1, 2009;⁷ and

WHEREAS, on October 6, 2009, September 21, 2010, September 20, 2011, September 18, 2012, September 26, 2013, September 30, 2014, September 22, 2015, October 6, 2016, September 14, 2017, and September 25, 2018, the Commission approved additional changes to the procurement process;⁸ and

⁴ See Order No. 7432 (Aug. 19, 2008). The Commission modified the SOS procurement rules to add language to relieve the wholesale suppliers from the requirement to provide RECs and solar renewable energy credits to meet Delaware's Renewable Energy Portfolio Standards Act's obligations and to excuse them from compliance with any other federal or state requirements for SOS that are met by the wind contracts.

⁵ In 2015 World Energy was bought by EnerNOC and effective October 1, 2018, EnerNOC was rebranded to Enel X. The agreements and reverse auction platform have not changed.

⁶ See Order No. 7461 (Oct. 7, 2008). The original RFP format was a simple sealed bid process in which bidders had one chance to submit bids for any or all available blocks without knowing other bids, the idea being that bidders would be forced to submit their best price. In contrast, the new reverse auction format relies upon bidders' awareness of other bidders' actions in an attempt to drive prices down. A starting price for each block is set prior to the submission of bids, and a separate auction is conducted for each available block. The auctions open simultaneously, and bidders may submit as many bids as they like on each block as long as each bid is below the starting price.

⁷ The procurement was conducted in two "tranches" and originally secured three-year supply contracts for one-third of the residential SOS load and one-year contracts for 100% of the load for other "fixed price" types of service. In Order No. 9064 dated May 23, 2017, the Commission approved transitioning from three-year to two-year laddered supply contracts for residential and small commercial customers. Staff and the Commission's consultant observed and evaluated the procurement of each tranche.

⁸ See Order No. 7670 (Oct. 6, 2009), Order No. 7846 (Sept. 21, 2010), and Order No. 8038 (Sept. 20, 2011). Order No. 8216 (Sept. 18, 2012) changed the RFP procurement amounts and dates, revised certain sections to allow execution by electronic signatures, revised the World Energy Solutions Supplier Agreement, and revised the FSA to include: language allowing certain documents to be executed by electronic signatures, the new version of the PJM's Declaration of Authority, and updated the Sample PJM Invoice. Order No. 8460 (September 26, 2013) changed the RFP to reflect current procurement amounts and dates, updated the World Energy Solution Supplier Agreement, and revised the FSA to include an amended Declaration of Authority if PJM requires such document and documentation required by PJM to support market administration. Order No. 8642 (Sept. 30, 2014) changed the RFP to reflect current procurement amounts and dates, and information about a proposed change to PJM's Declaration of Authority. Order No. 8795 (Sept. 22, 2015)

WHEREAS, in Order No. 9064, in Docket No. 14-0283, dated May 23, 2017, the Commission approved two-year laddered fixed price full requirement contracts for its Residential and Small Commercial and Industrial customers to replace the three-year fixed price full requirement contracts upon their expiration, and during the transition to the two-year contracts there may be contracts shorter than two years; and

WHEREAS, on August 16, 2019, Delmarva filed documents with the Commission pertaining to the RFP⁹ and FSA associated with the 2020 SOS Procurement Process (the “Filing”)¹⁰ that include proposed changes to the upcoming Delaware 2020 SOS procurement cycle and procurement process. The Filing includes the following six exhibits and are attached to this Order: Exhibit 1 contains a summary of the 2020 SOS Procurement Improvement Process proposals; Exhibit 2 is the redlined “Delmarva Power & Light 2020 Request for Proposals for Full Requirements Wholesale Electric Power Supply in Delaware,” (“RFP”); Exhibit 3 is the clean version of the RFP; Exhibit 4 is the redlined version of the “Full Requirements Service Agreement”, (“FSA”); Exhibit 5 is the clean version of the FSA; and Exhibit 6 is the Delmarva De. SOS Stakeholder List. In the Filing, Delmarva requests that the Commission approve the following changes to the SOS procurement process: (1) Delmarva’s first proposal (RFP § 3.1) was an administrative edit

replaced references to World Energy with EnerNOC, eliminated the eligibility requirement for the applicant to be registered with NERC and clarified the requirements for establishing an applicant’s pre-bid creditworthiness and changed the procurement amounts and dates. Order No. 8946 (Oct. 6, 2016) approved the RFP which amended the bidding schedule and approved the change to the FSA incorporating a new Transmission Enhancement Settlement Charge established by PJM and specifies the assignment of responsibilities to the Buyer. Order No. 9113 (Sept. 14, 2017) approved the RFP which amended the bidding schedule, transitioned the RSCI contracts from three-year laddered to two-year laddered, changed the eligibility requirements for the applicant and approved the change to the FSA to delete the definition of “Buyer Downgrade Event”. Order No. 9276 (Sept. 25, 2018) approved the RFP which amended the bidding schedule, continued the transition of RSCI contracts from three-year to two-year laddered, changed the requirement for Performance Assurance, and changed the FSA to make explicit that Sellers not rated by two of the three credit rating agencies are not eligible to receive unsecured credit.

⁹ References to EnerNOC in the RFP were changed to Enel X since effective October 1, 2018, EnerNOC had rebranded to Enel X. The agreements and reverse auction platform have not changed.

¹⁰ This Filing was not labeled in any particular way, but qualifies as an application under 26 *Del. Admin. C.* §1001-1.2.

to correct the issue date of Order No. 7053 to October 17, 2006; (2) The second proposal updates the bidding schedule for the upcoming procurement year (RFP § 6), including changing the Commission contract approval from Thursday to Wednesday of auction week beginning in 2020; (3) The third proposal clarifies (RFP § 3.1) that the posting of creditworthiness collateral is required to be “pre-bid” collateral for eligibility of applicants; and (4) In the fourth proposal (Exhibit 1, Item No. IV), the pre-bid software platform is changing from Appian to Ariba; and

WHEREAS, Delmarva held a SOS Procurement Improvement Process webcast and meeting for all interested stakeholders on August 8, 2019, and presented its proposed changes and requested any additional proposed modifications to the FSA or RFP; and

WHEREAS, Delmarva did not receive any objections to its proposed changes and no proposed changes were received from its stakeholders; and

WHEREAS, pursuant to 26 *Del. C.* §1007(c) (1) a., the Commission is specifically authorized to modify the SOS procurement process;¹¹ and

WHEREAS, Staff has reviewed the Filing and finds no issues with Delmarva’s proposed revisions to the FSA and RFP; and

WHEREAS, the Commission noted this docket on its calendar and has received no objections to the proposed revisions to the FSA and RFP;

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NOT FEWER THAN THREE COMMISSIONERS:

¹¹26 *Del. C.* §1007(c)(1)a. provides, in pertinent part, the following: “At least 30 percent of the resource mix of DP&L shall be purchases made through the regional wholesale market via a bid procurement or auction process held by DP&L. Such process shall be overseen by the Commission *subject to the procurement process approved in PSC Docket #04-391 as may be modified by future Commission action.*” (Emphasis added)

1. The Commission hereby approves Delmarva's proposed changes to the SOS procurement process, including those set forth in the revised "Delmarva Power & Light 2020 Request for Proposals for Full Requirements Wholesale Electric Power Supply in Delaware" dated October 9, 2019, which is attached as **Exhibit 3**, and those set forth in the revised "Full Requirements Service Agreement," which is attached as **Exhibit 5**.

2. The Commission reserves the jurisdiction and authority to enter such further Orders as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary